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TEACHING FROM THE MARGINS: RACE AS A PEDAGOGICAL SUB-TEXT

A Critical Essay

REGINALD LEAMON ROBINSON*

Reggie, you can't teach these students the way you were trained at Penn. These students have special needs, and they are not that bright.¹

You (informal) really don't want to be different. If you're different, you get in trouble, and I'm not sticking my neck out. So what you're saying to me is that if I'm different and if I get in trouble, you're not going to bat for me. That's right! You're on your own!²

I don't feel that I am learning the property laws and concepts that I will need to pass the bar, etc. We spend a lot of time dis-

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1. I have paraphrased a conversation I had with a liberal, senior white male colleague. Throughout this paper, I describe events which I experienced, and I present conversations that I had with my old colleagues. These experiences and conversations were powerful and marked me indelibly. That notwithstanding, I had to reconstruct not events but conversations. I also did not wish to use names. I do not wish to indict anyone personally and professionally. Nevertheless, I want to tell my story. I want to uncover the brutal experiences, personal indignities, and institutional racism that almost all minority, women, and gay/lesbian law professors suffer daily. I wish to expose this maltreatment so that white male (and female) law professors can no longer hide their shameless, poisonous, and injurious conduct from public scrutiny.

2. Again, a paraphrased conversation I had with a liberal, senior white male colleague as we rushed to a regular faculty meeting.

cussing philosophers which don't seem to be relevant to the goals of the students. Much time in class is also spent "arguing" points, an endeavor which is needed as a lawyering skill but, perhaps, would be better confined to a class of its own.³

Prof. Robinson uses a book that spells "Black" with a capital "B" and "white" with a small "w," which is indicative of his general attitude of reverse discrimination. White students in this class are made to feel guilty for the injustices suffered by blacks, while black students seem to be receiving preferential treatment both inside and outside class.⁴

I feel Professor Robinson is an excellent teacher who receives a lot of criticism which I know is based on factors outside of property. Although we are in 1991, a lot of students just can't accept a strong positive African American Professor, who is intelligent and doing things differently. It's sad but true that racism is alive and well at [our] Law School.⁵

INTRODUCTION

In this critical essay, I explore, re-live, and analyze how my white male colleagues and students marginalized me because they saw my race in every aspect of my teaching. In this way, white male professors and students become neutralizing, silencing, and powerful forces in the life of minority law professors. By racializing any pedagogical approach, these professors and students had implicitly decided at least three things. First, my good white colleagues did not infuse their teaching with a racial perspective. Second, if I spoke with a racialized voice, then I was a mediocre teacher, and the students would not pass the bar. Third, I cannot become a pedagogical force in a majority white legal educational institution.⁶ It was Kenneth Ferguson who stated that even if minority law professors teach well, in the eyes of their white students they can only be entitled to average student evaluations.⁷ As such, these comple-

3. Fall 1991, Student Course Evaluations, Real Property I. The caption of this page read as follows: "This page is a non-confidential page for comments explaining your ratings on the previous page, or any other non-confidential comments you would like to make about the instructor or the course. This page will be available to the Faculty Personnel Committee for use in decisions affecting the instructor."

4. *Id.*

5. *Id.*

6. See, e.g., Richard Delgado, *Minority Law Professors' Lives: The Bell-Delgado Survey*, 24 HARV. C.R.-C.L. L. REV. 349, 357 (1989); Jennifer M. Russell, *On Being a Gorilla in your Midst, or, The Life of One Blackwoman in the Legal Academy*, 28 HARV. C.R.-C.L. L. REV. 259, 261 (1993).

7. See Professor Kenneth Ferguson, Remarks at the First Mid-Atlantic People of

mentary forces place us in institutionally marginalized and pedagogically silenced positions.⁸ First, most white students by and large reject minority law professors as purveyors of any legal knowledge, especially if our teaching deviates from standard institutional fare, or what one of my colleagues called "a dramatic reading of *Gilbert's*." Second, most white law professors generally fear that we will disturb their male (on rare occasions female) prerogatives by proffering a persuasive counter-hegemonic pedagogy.⁹ Equally important, most liberal white law professors feel particularly challenged by a pedagogical (or scholarship) approach that displaces their positive law or CLS-oriented messages,¹⁰ an ap-

Color Legal Scholarship Conference, Howard University School of Law (Feb. 15-17, 1995).

8. See Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561, 566 (1984). Professor Delgado writes:

I think I have discovered a second scholarly tradition. It consists of white scholars' systematic occupation of, and exclusion of minority scholars from, the central areas of civil rights scholarship. The mainstream writers tend to acknowledge only each other's work. It is even possible that, consciously or not, they resist entry by minority scholars into the field, perhaps counseling them, as I was counseled, to establish their reputations in other areas of law. I believe that this "scholarly tradition" exists mainly in civil rights; nonwhite scholars in other fields of law seem to confront no such tradition.

Id. at 566 (footnote omitted); see also Margaret Montoya, *Mascaras, Trenzas, y Greñas: Un/Masking the Self While Un/Braiding Latina Stories and Legal Discourses*, 17 HARV. WOMEN'S L.J. 185, 192 (1994). Montoya states that:

To support their academic progress, Latinos have encouraged their children to speak English well and have tolerated other aspects of acculturation, such as changes in friends, clothes and recreational preferences. As they undertake the daily interactions involved in socialization, students adopt masks of the dominant culture which manifest the negative values ascribed to traditional Latina/o culture. Latina/o history is replete with stories about those who changed their names, lost the Spanish language and with it any trace of a Spanish accent, or deliberately married out of the culture. In short, some did whatever was necessary to be seen as not-different by the majority.

Id. at 193.

9. See Jerome McCristal Culp, Jr., *Posner on Duncan Kennedy and Racial Difference: White Authority in the Legal Academy*, 41 DUKE L.J. 1095 (1992) (arguing that due to larger tenured black law professor presence in legal academe, blacks can intellectually share and shape their own agenda, a program that does not immediately react to white male interest); Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2424 (1989) ("Don't get me wrong. They're a good law school; I could see myself teaching there. But I think they're looking for someone they will never find — a black who won't challenge them in any way, who is just like them.").

10. See, e.g., Daniel A. Farber & Suzanna Sherry, *Telling Stories Out of School: An Essay on Legal Narratives*, 45 STAN. L. REV. 807, 826-27 (1993) ("But in our extensive reading of the storytelling literature, we have found few efforts to connect the events in the stories with the experiences of white or male readers. Thus, whatever potential storytelling might have to change attitudes is unlikely to be realized by the

proach that avoids context and atypical stories.¹¹

I. RACIAL UBIQUITY—BLACK OR WHITE?

Can I explain how I feel when I read political philosophy, or social and legal history, or critical race theory? Traditionally, political philosophy, although it raises vitally important questions,¹² rationalizes our institutional arrangements which argued that *race* separates us,¹³ and it proffers a legacy that brings us to racial contest today.¹⁴ In its most elite variety, social and legal history turns

current generation of efforts."); Mark Tushnet, *The Degradation of Constitutional Discourse*, 81 GEO. L.J. 251 (1992).

11. See, e.g., Farber & Sherry, *supra* note 10, at 810 ("Even if a story is true, it may be atypical of real world experiences."). But see Reginald Leamon Robinson, *Race, Myth, and Narrative in the Social Construction of the Black Self*, 40 How. L.J. (forthcoming 1997):

Typicality must stand for something else, and that something must be as much myth as it is narrative. If it is myth or narrative, then it is constructed, and if so, then typicality is about *whose* restrictive lenses matter. On this point, a minority person's subject positioning is meaningless because Farber and Sherry believe that people who live in the same communities have the same experiences.

Id.

12. See, e.g., Roscoe Pound, *The Scope and Purpose of Sociological Jurisprudence*, 24 HARV. L. REV. 591 (1911). Pound states that

[t]he appeal to reason and to the sense of mankind for the time being as to what is just and right, which the philosophical jurist is always making, and his insistence upon what ought to be law as binding law because of its intrinsic reasonableness, have been the strongest liberalizing forces in legal history.

Id. at 608.

13. See DAVID THEO GOLDBERG, *RACIST CULTURE: PHILOSOPHY AND THE POLITICS OF MEANING* 6 (1993) ("Kant, citing with approval David Hume's likening of learning by 'negroes' to that of parrots, insisted upon the natural stupidity of blacks. John Stuart Mill, like his father, presupposed nonwhite nations to be uncivilized and so historically incapable of self-government."). Goldberg wrote that

liberal modernity seems prepared to respond in only of two problematic forms. The first is to deny otherness, the otherness it has been instrumental in creating, or at least to deny its relevance. The second seems less extreme, but the effect is identical. Liberals may admit the other's difference, may be moved to *tolerate* it. Yet tolerance . . . presupposes that its object is morally repugnant, that it really needs to be reformed, that is, altered.

Id. at 7; see also GEORGE M. FREDRICKSON, *THE BLACK IMAGE IN THE WHITE MIND: THE DEBATE ON AFRO-AMERICAN CHARACTER AND DESTINY, 1817-1914* (1972). See, e.g., *Plessy v. Ferguson*, 163 U.S. 537 (1896); *The Civil Rights Cases*, 109 U.S. 3 (1883).

14. See GOLDBERG, *supra* note 13, at 113-14.

In undertaking to redress the wrongs of racism, policies of affirmative action are thought to commit the kind of wrong that they are supposed to be combating, namely, privileging some over others on the basis of racial membership. . . . The objection is usually that the preferential treatment of groups whose members have been excluded from access to social resources amounts

on a white person's story about why one race has come to control another.¹⁵ And critical race theory explores not only how a radical liberal civil rights agenda can still ignore the day-to-day lives of minority citizens,¹⁶ but also how race has steadily anchored America's core values. As a "black" person, I read with a racially conditioned perspective. As a "minority" law professor, I read with a view that struggles for an authentic place in legal academe.¹⁷ Although I cannot separate my personal self from my professional self, I force a professional distance. Sometimes, I do sense that I am reacting emotionally, losing my spiritual center, and cursing between my clenched teeth. As I read, I seek a teaching agent, so that I can

to unacceptable forms of reverse racial discrimination against those formerly favored (namely, white males).

Id.; see also *Adarand Constructors, Inc. v. Peña*, 115 S. Ct. 2097 (1995); *Shaw v. Reno*, 509 U.S. 630 (1993); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989); *Hopwood v. Texas*, 78 F.3d 932 (5th Cir.), *cert. denied*, 116 S. Ct. 2581 (1996).

15. See, e.g., WINTHROP D. JORDAN, *WHITE OVER BLACK: AMERICAN ATTITUDES TOWARD THE NEGRO, 1550-1812* (1968) (discussing how Anglo-Europeans socially conditioned Africans to in part rationalize their decision not only to enslave them but also to create notions of white superiority); ARTHUR F. RAPER, *THE TRAGEDY OF LYNCHING* (1933), *reprinted in* *MASS VIOLENCE IN AMERICA* (Robert M. Fogelson & Richard E. Rubenstein eds., Arno Press & The New York Times 1969). In *The Tragedy of Lynching*, Arthur Raper, using the best of intentions, somewhat suggests that if whites would support blacks through educational opportunities, they would not be subject to racial violence such as lynching. Implicit in this message is that dumb blacks with few real life chances get viewed as dangerous to poor, middle class, elite whites and white public officials. However, it also suggests that if liberal institutions worked for blacks as they potentially work for whites, then racism and white supremacy would not have a very violent face. See *id.*; see also HOWARD ZINN, *A PEOPLE'S HISTORY OF THE UNITED STATES* 8 (1980) ("The historian's distortion is more than technical, it is ideological; it is released into a world of contending interests, where any chosen emphasis supports (whether the historian means to or not) some kind of interest, whether economic or political or racial or national or sexual.").

16. See, e.g., Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988). Kimberlé Crenshaw wrote:

The failure of the [CLS scholars] to consider race in their account of law and legitimacy is not a minor oversight: race-consciousness is central not only to the domination of Blacks, but also to whites' acceptance of the legitimacy of hierarchy and to their identity with elite interest. Exposing the centrality of race consciousness is crucial to identifying and delegitimizing beliefs that present hierarchy as inevitable and fair. Moreover, exposing the centrality of race consciousness shows how the options of Blacks in American society have been limited, and how the use of rights rhetoric has emancipated Blacks from some manifestations of racial domination.

Id. at 1369.

17. See, e.g., John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Life in a Multicultural World*, 65 S. CAL. L. REV. 2129, 2161 (1992).

deliver critical thinking to my students, an inoculum against unreflective "John Q. or Jane Q. Public" conclusions. As a "black" person, I must take them beyond a well-worn story, perhaps a fairytale with all white characters,¹⁸ so that they can see the kaleidoscope of human colors—blacks, browns, reds, whites, and yellows¹⁹—and so that they can hear how, in America, whites unfortunately use "color" as a proxy for race to determine if people and their voices' accents have worth.²⁰

Can I explain to my students, colleagues, or deans that my lived life reeks of an oft-told story of my racial (and thus personal) irrelevance²¹ to America's core feature—a white cultural matrix?²²

18. See, e.g., Ian F. Haney-Lopez, *The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice*, 29 HARV. C.R.-C.L. L. REV. 1, 2 (1994).

19. See Michael A. Olivas, *The Chronicles, My Grandfather's Stories, and Immigration Law: The Slave Traders Chronicle as Racial History*, 34 ST. LOUIS U. L.J. 425 (1990).

20. See, e.g., Mari J. Matsuda, *Voices of America Accent, Antidiscrimination Law, and a Jurisprudence for the Last Reconstruction*, 100 YALE L.J. 1329, 1329 (1991). According to Mari Matsuda:

Every person who reads this Article has an accent. Your accent carries the story of who you are—who first held you and talked to you when you were a child, where you have lived, your age, the schools you attended, the languages you know, your ethnicity, whom you admire, your loyalties, your profession, your class position: traces of your life and identity are woven into your pronunciation, your phrasing, your choice of words. Your self is inseparable from your accent. Someone who tells you they don't like the way you speak is quite likely telling you that they don't like you.

Id. at 1329 (footnotes omitted); see also Juan F. Perea, *English-Only Rules and the Right to Speak One's Primary Language in the Workplace*, 23 U. MICH. J.L. REFORM 265 (1990). See, e.g., *Yniguez v. Arizonans for Official English*, 69 F.3d 920, 924 (9th Cir. 1994) ("We conclude that Article XXVIII constitutes a prohibited means of promoting the English language and affirm the district court's ruling that it violates the First Amendment."), *cert. granted sub nom. Arizonans for Official English v. Arizona*, 116 S. Ct. 1316 (1996).

21. See Charles R. Lawrence III, *The Word and the River: Pedagogy as Scholarship as Struggle*, 65 S. CAL. L. REV. 2231, 2279 (1992) ("We remain invisible and unheard in the literature that is the evidentiary database for legal discourse, and when we are seen, in stories told by others, our images are severely distorted by the lenses of fear, bias, and misunderstanding."); Robinson, *supra* note 11; Robin West, *Communities, Texts, and Law: Reflections on the Law and Literature Movement*, 1 YALE J.L. & HUMAN. 129, 138 (1988) ("[Outsiders] do not participate as subjects in the process of critique and self-transformation. . . . [B]ecause they are outside the community, they do not speak; because they do not speak, they are objects . . .").

22. See Reginald Leamon Robinson, *White Cultural Matrix and the Language of Nonverbal Advertising in Housing Segregation: Toward an Aggregate Theory of Liability*, 25 CAP. U.L. REV. 101 (1996).

To be sure, a white cultural matrix does not stand only for racism and white supremacy. By racism, society suffers because whites assert that blacks have immutable traits or genetic predispositions that render them unfit for

At an ideal level, I prefer to keep this narrative outside my classroom. At a deeper level, where perhaps I am unafraid and centered in who I really am (i.e., in spirit, an unraced person), I recognize that I need their racial fear and ignorance. The fear and ignorance create sincere moments of vulnerability and opportunities for learning. Although my students often aggressively use this fear and ignorance to wound their peers' ears, hearts, bodies, and minds,²³ most students unconsciously express their deep, socially developed fear of their racialized peers and their experiences.²⁴ In truth, I face difficulty whenever I subversively challenge my students' culturally blinded racism,²⁵ and although I fool myself temporarily into believing otherwise, my words, rhythm, and voice alert my students, as I enter the class for the first time, that I am *only* a black man. My

equal access to rights, goods, and services. Under this racist ideology, whites who have acquired political or economic power set up institutional practices which limit African Americans' life chances. Under this definition, two experiences have been noted. First, I have captured the physical (or symbolic) violence and race hatred of individual racism. Second, I have recognized institutional racism which operates virtually invisibly, and thus whites establish rules, norms, and decisionmaking procedures that unduly, impermissibly, and disproportionately affect African Americans. By white supremacy, I mean a broad system of white dominance, political power, and cultural hegemony. Professor Fran Ansley writes:

By white supremacy, . . . [sic] [I mean] a political, economic and cultural system in which whites overwhelmingly control power and material resources, conscious and unconscious ideas of white superiority and entitlement are widespread, and relations of white dominance and non-white subordination are daily reenacted across a broad array of institutions and social settings.

As such, a white cultural matrix necessarily includes racism and white supremacy, but it should not be limited to these very powerful aspects of America's racial oppression. In this way, then, a white cultural matrix not only provides the germ seed for racism and white dominance, but also a cultural hegemony in which every aspect of *whiteness* as goodness lauds over African Americans, and in which this *whiteness* informs every dominant aspect of American life.

Id. at 122-24 (footnotes omitted) (quoting Frances Lee Ansley, *Stirring the Ashes: Race, Class and the Future of Civil Rights Scholarship*, 74 CORNELL L. REV. 993, 1024 n.129 (1989)).

23. See, e.g., Richard Delgado, *Words That Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, 17 HARV. C.R.-C.L. L. REV. 133 (1982).

24. See generally JOEL KOVEL, *WHITE RACISM: A PSYCHOHISTORY* (1984); Charles R. Lawrence III, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987); David Benjamin Oppenheimer, *Negligent Discrimination*, 141 U. PA. L. REV. 899 (1993).

25. See, e.g., Anthony Cook, *Cultural Racism and the Limits of Rationality in the Saga of Rodney King*, 70 DENV. U. L. REV. 297, 297 (1993).

race thus precedes me as I enter my classroom;²⁶ now they can, in their minds, justifiably doubt me.²⁷

Alas, I shiver at the thought that I am *only* a black man. Do I have a "race"?²⁸ I don't think so! It's all a big joke.²⁹ Although I recognize that I am spiritual energy in an unqualified, non-linear moment, the jig's up—my students have *seen* my "race." Within moments, I am privatized, murdering and murdered, as their eyes are fixed on my every move.³⁰ They doubt, fear, sexualize, and later, perhaps, respect me.³¹ I feel their ambivalence; I dread that they might feel mine too. No matter what they think of that "raced" person who just entered the class, I am not him, not solely a race. But they place me along side those privatized images, projecting them onto the person in front of the class.³² These projected

26. See, e.g., Jerome McCristal Culp, Jr., *Toward a Black Legal Scholarship: Race and Original Understandings*, 1991 DUKE L.J. 39, 45.

27. See Okianer Christian Dark, *Just My 'Magination*, 10 HARV. BLACK LETTER J. 21, 25 (1993) ("The challenge of the 'You said X' question is the assumption that the woman law professor can not be more authoritative as a source than the source that the student is relying upon or quoting from. Unlike the professor, these sources are not capable of being cross-examined. How does one effectively respond to this special kind of question without losing or seriously undermining credibility, composure, and general 'cool'?"); Russell, *supra* note 6, at 261 ("The blackwoman cannot legitimately claim any special competence or expertise in any subject or field. Her considered judgments regarding course coverage, teaching methodology, examination and grading can be challenged with impunity.").

28. See, e.g., Anthony Appiah, *The Uncompleted Argument: Du Bois and the Illusion of Race*, in "RACE," WRITING, AND DIFFERENCE 21 (Henry Louis Gates, Jr. ed., 1986).

29. See, e.g., *United States v. Thind*, 261 U.S. 204 (1922). The Supreme Court stated that:

[T]he word "Caucasian" is in scarcely better repute [than the word "Aryan"]. It is at best a conventional term, with an altogether fortuitous origin, which, under scientific manipulation, has come to include far more than the unscientific mind suspects. . . . [I]t includes not only the Hindu but some of the Polynesians, . . . the Hamites of Africa, upon the ground of the Caucasian cast of their features, though in color they range from brown to black. We venture to think that the average well informed white American would learn with some degree of astonishment that the race to which he belongs is made up of such heterogeneous elements.

Id. at 211.

30. See PATRICIA J. WILLIAMS, *ALCHEMY OF RACE AND RIGHTS* (1991) (referring to the Benneton's case of privatized fear of blacks by whites and the legal cognition of such fears); John F. Dovidio & Samuel L. Gaertner, *Stereotypes and Evaluative Intergroup Bias*, in AFFECT, COGNITION, AND STEREOTYPING: INTERACTIVE PROCESSES IN GROUP PERCEPTION 167, 179-83 (Diane M. Mackie & David L. Hamilton eds., 1993) (discussing the effect of stereotypes on the way in which members of one social group evaluate people who are not members of that group).

31. See CALVIN HERNTON, *SEX AND RACISM IN AMERICA* (1988).

32. See Richard Delgado & Jean Stefancic, *Images of the Outsider in American*

images limit their visual acuity; they never really see me—*just* a stereotype, *just* a black man. Now, I fight back, looking for an unmediated space, and I do so by anticipating that I would need a casebook that places race, gender, class, and an historical context on its surface.³³ I expose them to cases, legal codes, and the arrogantly marginalizing, legally historical story. And unlike my white (mostly male) colleagues, I threaten the codes, the story, and I quickly show them that legal rules have no inherent meaning, no burning bush. I am unremorseful, telling them that rules operate as spiritually disempowering blinders; they shield our eyes from the empty, wrong-headed thinking that undergirds a regime that once rationalized slavery and currently valorizes racial duality.³⁴ To them, I am a heretic, an unrepentant thorn in the side of a spiritually corrupt and politically violent story. In the end, I seek an authenticity³⁵ that rejects a private language game³⁶ of fear, racism, ignorance, and deeply unexpressed social guilt. Quietly, I demand an empowering myth beyond that of a *black* person and of *traditional* real property law.

In reaction, my students queue outside of the dean's office. He listens, silently encouraging them. They complain to my senior

Law and Culture: Can Free Expression Remedy Systemic Social Ills?, 77 CORNELL L. REV. 1258, 1287 (1992).

33. See RICHARD H. CHUSED, CASES, MATERIALS AND PROBLEMS IN PROPERTY (1988).

34. See, e.g., KENNETH O'REILLY, NIXON'S PIANO: PRESIDENTS AND RACIAL POLITICS FROM WASHINGTON TO CLINTON 12 (1995). Kenneth O'Reilly wrote:

Southern strategy in our time remains what it has always been: the gut organizing principle of American politics. At root it is nothing more than a belief that presidential elections can be won only by following the doctrines and rituals of white over black. The pecking order has stayed that way through the death of slavery and Jim Crow, and notwithstanding Lincoln and Johnson our presidents have in nearly every other case made it their job to keep that order.

Id. at 10.

35. See Calmore, *supra* note 17, at 2169 (discussing authenticity and alienation).

36. See LUDWIG WITTGENSTEIN, PHILOSOPHICAL INVESTIGATIONS § 23, at 11e (G.E.M. Anscombe trans., 3d ed. 1958) ("Here the term 'language-game' is meant to bring into prominence the fact that the *speaking* of language is part of an activity, or a of form of life."). Ludwig Wittgenstein further argues:

Let us remember that there are certain criteria in a man's behaviour for the fact that he does not understand a word: that it means nothing to him, that he can do nothing with it. And criteria for his 'thinking he understands', [sic] attaching some meaning to the word, but not the right one. And, lastly, criteria for his understanding the word right. In the second case one might speak of a subjective understanding. And sounds which no one else understands but which I '*appear to understand*' [sic] might be called a "private language."

Id. § 269, at 94e.

white male colleagues, and after learning how unrepentant I am in the face of overwhelming hostility to race, gender, and class issues, I learn that a junior, untenured white female colleague tells one of my students to inform the Personnel Committee. I feel betrayed (sometimes I think, "Why betrayed; did I *ever* trust her?"). Nonetheless, I press on. I must learn to teach, to subvert, to enlighten.³⁷ Am I committing professional suicide? My students demand only rules, and my colleagues require sworn allegiance to a "high school" pedagogy that justifies their institutional standing and personal privileges. I am told emphatically to teach like all others.³⁸ Give them the black letter law (I think a touch of irony); they, after all, cannot handle a challenging pedagogy and must feel that they can pass the bar.

I reject both calls.³⁹ Because each of us accepts a range of social norms as true, we have, regardless of race, common experiences. However, as individuals, we experience a host of events differently.⁴⁰ This difference will affect the manner in which we teach.⁴¹ Then I cannot teach like my white colleagues because I am

37. See Dark, *supra* note 27. As Dark explains:

Many teachers have problems in their early careers managing the time of the class so that they can accomplish their goals. These teaching goals may include the introduction of and development of the traditional legal tools otherwise referred to as the process—the lawyering process; coverage of a discrete body of law known as ___ X ___; and any other goals that the professor deems important in her course.

Id. at 23.

38. Summarizing and paraphrasing a conversation I had with a colleague on the Personnel Committee.

39. See Calmore, *supra* note 17, at 2160 (stating that critical race theory does not care about all institutional concerns).

40. See Taunya Lovell Banks, *Two Life Stories: Reflections of One Black Woman Law Professor*, 6 BERKELEY WOMEN'S L.J. 46 (1990-91).

[W]e tend to think that only Black men's lives are dominated by the experience of "being feared." But in this instance [i.e., two white women on different floors refusing to enter an elevator with all black women in their 30s and 40s], by virtue of color alone, we too were feared. Thus being feared is not simply a Black male experience, it is part of the Black experience.

Id. at 50.

41. See Lawrence, *supra* note 21.

The Word, in stark contrast [to the objective, unbiased, and universal perspective], embraces positioned perspective. It recognizes the impossibility of distance and impartiality in the observation of a play in which the observers must also be actors. But, championing subjectivity is more than an acknowledgment of the existence and validity of many different and competing perspectives. Practitioners of the Word must learn to privilege their own perspectives and those of other outsiders, understanding that the dominant legal discourse is premised upon the claim to knowledge of objective truths and the existence

not like them. Despite this obvious existential point, I do get the picture: teach without a (racial?) perspective.⁴²

Basically, I was invited to join the faculty because I had "black" skin, and I could stay as long as I taught in a "white" face. To adopt any suggestion means that these students cannot blend critical thinking and the lawyering process. It would mean that my colleagues do not take their mission seriously. It would mean that I doubt my students. (On several occasions, students would ask me if my colleagues thought they were too stupid. I answer honestly: "Some . . . yes, but I believe in you. That's why I don't spoon-feed you."). And it would mean that I am knowingly participating in marginalizing my personal-professional voice. Within one year after I entered legal academe, I am all too painfully aware that *race*—black and white—operates as sub-text, no matter how I teach.

II. THE BLACK LAW PROFESSOR: A (THE) QUESTIONABLE INTELLECTUAL?

Since 1991, I have learned that effective law teaching locates itself in a high conspiracy of excellence and commitment. As Taunya Lovell Banks argues, "[g]ood law teachers are intellectually challenging and aggressively involved with students."⁴³ Excellence, commitment, challenge, and aggression serve as key ingredients, which originate with a law school's faculty. And these ingredients alchemically change students and teachers alike. I do not present an ideal; I would imagine that all law schools would confess their role in this conspiracy. They would publicly declare it. Cynically, as long as deans and law faculty play a role in defining what excellence, commitment, challenge, and aggression mean, all law schools have good law teachers, especially if their definition does not disturb the dominant institutional narrative.⁴⁴

of neutral principles. We must free ourselves from the mystification produced by this ideology.

Id. at 2252-53 (footnotes omitted).

42. See Kimberlé Williams Crenshaw, *Foreword: Toward A Race-Conscious Pedagogy in Legal Education*, 4 S. CAL. REV. L & WOMEN'S STUD. 33, 46 (1994) (discussing perspectivelessness as dominant discourse).

43. Banks, *supra* note 40, at 46.

44. Cf. Dark, *supra* note 27, at 29.

Did they think we were only having some purely academic discussion about First Amendment rights and self-determination [when I voiced concern over the "Buckwheat skit" incident]? Why couldn't they see that this was a discussion about this institution's values, this institution's commitment to fairness, justice and sensitivity regarding *all* members of the community, not just those

However, good law teaching is a narrative, a story, that reflects a certain perspective, usually an institutional one driven by a host of well-formed cultural norms, and it continues to reject the black law professors—the questionable intellectual.⁴⁵ As such, I understand these ingredients (e.g., excellence, commitment, challenge, and aggression) in this narrative context. They are text and subtext. At the level of text, everyone can be good law teachers, and in this vein, law schools actively recruit minorities and women for this role.⁴⁶ At the level of subtext, minorities and women are not expected by white males (deans and professors) to succeed in the classroom. If a minority succeeds in the classroom, especially in a majority white institution, she must leave most of her lived experiences in her diary, in her close personal friend's ears, or in her law review article's "fictional" personal narratives.⁴⁷ If a minority fails in the classroom, he must have violated an institutional norm, some totem to which most of the white males pray and upon which most white law students depend to gauge their performance in law school.⁴⁸ In either case, success or failure depends on whether the

who represent the dominant culture. Faculty maintain and translate the institutional norms, ethos, values.

Id.

45. See Delgado, *supra* note 9.

[O]ne [younger law professor] even changed the subject and asked about my philosophy of teaching. That brought everybody to the edge of their chairs. I got the impression many of them merely wanted assurance that I would write *some* articles, even if they were mediocre. But they were *all* extremely concerned that I be a good teacher. I think many of them were looking for a mascot, not a fellow scholar—someone who would counsel and keep the students in line, not someone who could challenge his or her colleagues at their own game.

Id. at 2423.

46. See *Retaining Faculty of Color*, 3 AALS NEWSL. (Ass'n of Am. L. Sch., Washington, D.C.), Aug. 1996, at 1.

The good news is that the number of new minority law professors increased during the 1995-96 academic year, as it did during the previous year. The bad news, however, is that the number of minority faculty leaving law teaching also increased. Although 62 members of racial minorities became law professors during the 1995-96 academic year, 31 minority professors left. During the 1994-95 academic year, 46 members of racial minorities became law professors, but 22 minority professors left.

Id. at 7.

47. See, e.g., WILLIAMS, *supra* note 30.

48. In a 1991-1992 student evaluation, one of my students wrote:

Prof. Robinson *may be* very knowledgeable about the subject of real property, but he certainly does not know how to teach it. I can't even say that he doesn't *know how* to explain property concepts because *he doesn't* attempt to explain. His understanding of teaching is to assign the readings, then to con-

minority law professor locates herself inside or outside of the institution's narrative. This narrative does not empower, but restricts, one's pedagogy,⁴⁹ and in so doing, it usually shelters white male law professors from the reality that they violently, institutionally, and continuously marginalize minority law professors. This narrative also prevents a minority law professor from naming her own personal and professional reality,⁵⁰ an experience in which she has probably suffered the ugly face of invisible white privilege.⁵¹ Without institutional power and naming rights, this narrative reifies a cultural norm that denies that minority law professors on their own terms can succeed in the classroom and that rejects the black intel-

duct an extreme Socratic method in class, which leaves students with more questions hanging unanswered than with answers, and with more questions *after class* than they had *before class*.

Another student wrote: "This instructor gives students the benefit of the doubt that they are bright enough to handle various techniques to teaching a given subject, instead of feeling that students can only handle 'spoon feeding' of the black letter law."

49. Cf. Stanley Fish, *Fish v. Fiss*, 36 STAN. L. REV. 1325 (1984). Fish aptly argues that:

My contention is that by showing why the good kind of independence can never be achieved, I have shown at the same time why the bad kind is never a possibility. Just as rules can be read only in the context of the practice they supposedly order, so are those who have learned to read them constrained by the assumptions and categories of understanding embodied in that same practice. It is these assumptions and categories that have been internalized in the course of training, a process at the end of which the trainee is not only possessed *of* but possessed *by* a knowledge of the ropes, by a tacit knowledge that tells him not so much what to do, but already has him doing it as a condition of perception and even of thought. The person who looks about and sees, without reflection, a field already organized by problems, impending decisions, possible courses of action, goals, consequences, desiderata, etc. is not free to choose or originate his own meanings, because a set of meanings has, in a sense, already chosen him and is working itself out in the actions of perception, interpretation, judgment, etc. he is even now performing.

Id. at 1333.

50. See Richard Delgado, *When a Story is Just a Story: Does Voice Really Matter?*, 76 VA. L. REV. 95 (1990). Richard Delgado argues that the socialized "Other" has a right to name his or her own reality. In this regard, critical race theory asserts:

(1) an insistence on "naming our own reality;" (2) the belief that knowledge and ideas are powerful; (3) a readiness to question basic premises of moderate/incremental civil rights law; (4) the borrowing of insights from social science on race and racism; (5) critical examination of the myths and stories powerful groups use to justify racial subordination; (6) a more contextualized treatment of doctrine; (7) criticism of liberal legalisms; and (8) an interest in structural determinism—the ways in which legal tools and thought-structures can impede law reform.

Id. at 95 n.1.

51. See, e.g., Peggy McIntosh, *White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women's Studies*, in LESLIE BENDER & DAAN BRAVEMAN, *POWER, PRIVILEGE AND LAW* 22 (1995).

lectual as a co-equal partner in the legal academic enterprise.⁵²

Equally important, this narrative of good law teaching rejects minority law professors as intellectual equals.⁵³ In his *Notes on Virginia*, did not Thomas Jefferson question the intellectual abilities of black Africans?⁵⁴ Due to Americans' commitment to a white cultural matrix, white male law professors have defined the parameters of good law teaching in a manner which reifies their values, morals, and standards, and which questions implicitly, sometimes explicitly, the intellectual acumen of minority law professors. This narrative mandates that minority law professors present the law as they would. However, this view does not account for the whole mediated experience that a minority law professor brings with her. Jerome McCristal Culp writes:

All black law professors face a common problem. We are asked to play a role that is assigned to us because of our race, and we then are asked to remove our blackness when we play the role. This role is to be black and to be a law professor without retaining any visible signs of our black experience. Our colleagues would like us to take care of black students, mother white students, and perform numerous tasks associated with being professors. Not all of us are ready or able to play all of the roles that our status as black representatives in a largely white profession thrust on us. We not only rebel, we try to reshape the role. . . . [W]e bring the voice of our own experience to the . . . teaching that we perform. . . . We sometimes see the world exactly as other Americans see it and sometimes not, but we always bring that dual experience that is both similar to and different from the experience of white law professors to the jobs we perform as professors.⁵⁵

In 1991, I implicitly challenged the narrative by which white male law professors gauged their classroom success when I un-

52. See Richard Delgado, *Approach-Avoidance in Law School Hiring: Is the Law a WASP?*, 34 ST. LOUIS U. L.J. 631 (1990). "Liberal law faculty members both want, and fear, minorities and women. They realize they should have more of us, and would like to welcome us into the fold. But at the same time they fear us, and want us to keep our distance. We are unsettling — we are Other." *Id.* at 634.

53. Banks, *supra* note 40, at 46-47 (Stating that "the need for Black women mentors/intellectuals is a better justification for hiring Black women as law teachers than is the need for role models. Law faculties may not take this argument seriously because of the societal bias against all women (and Black men) as intellectuals and leaders.").

54. THOMAS JEFFERSON, NOTES ON THE STATE OF VIRGINIA (1781), reprinted in STEPHEN B. PRESSER & JAMIL S. ZAINALDIN, LAW AND JURISPRUDENCE IN AMERICAN HISTORY 116, 121-24 (3d ed. 1995).

55. Culp, *supra* note 26, at 45 (footnote omitted).

knowingly questioned my institution's pedagogical model. It was called derisively the "High School Model." It is a dressed up version—with all of the thrill and excitement of watching two slugs race—of *spoon feeding*.⁵⁶ When I interviewed with this institution, I had no idea that its pedagogical movement had been entombed years before I arrived. Although I later learned that junior colleagues grumbled under their powerless breaths, no one knowingly challenged it, and on the few occasions when a young white feminist began to express herself openly, students complained, calling her a man-hater. The dean, always adverse to students' complaints because the law school is tuition driven, listened and encouraged them. Shortly thereafter, the Personnel Committee sternly chastised her, and quietly encouraged her to think not of intellectual interests but of contract renewal. She quickly folded her intellectual tent, operating instead inside the institutional narrative of good law teaching. Like this young, female colleague, I used my voice, a point of view molded by my needlessly race-oriented experiences. Like this colleague, I wanted to do more than pour meaningless rules and principles into my students' heads without a social, historical, and philosophical context. I was, after all, not *Emanuel's* personified but a *law professor*. Unlike this colleague, I, having newly arrived, did not know of the privileged position the "High School" model enjoyed. I did not know that this model made the white male law professors institutional gods, and I did not know that it was the only model in town. By the time I caught on, the horse had left the burning barn.

I entered legal academe, perhaps foolishly, but no less idealistically, believing that after I introduced my students to fundamental concepts in property law, I was free to graze the intellectual pasture, so that I could invite them, often against their will, to question, doubt, or subvert deeply held convictions about the law and their role in making the law live positively in the lives of their clients and society.⁵⁷ As Oliver Wendell Holmes persuasively argued, the law

56. In 1991 a student wrote:

A different method than the majority of other professors seemingly always produces a negativity among students. However, I believe this instructor's demand that all students be extremely prepared angered only those students who feel they have no responsibility to work hard. In other words, my guess is that the majority of this class is lazy and are more apt to complain than to work hard. This instructor will be one of the premier professors whose demand for hard work is renown.

57. In a 1991 student evaluation, one student wrote:

Prof. Robinson is a warm, cheerful, and sensitive person. Unfortunately, in a

is not logic but experience.⁵⁸ In part, this experience begins with social and legal theorists. I therefore assigned edited material from such authors as Samuel Pufendorf, John Locke, Sir William Blackstone, Jeremy Bentham, Georg W.F. Hegel, Sir Henry Maine, Karl Marx and Frederick Engels, Harold Demsetz, and Charles Reich,⁵⁹ as well as Immanuel Kant,⁶⁰ Wesley Hohfeld,⁶¹ and Richard Posner.⁶² To this list of flaming subversives, I added a liberal response to Marx and Engels.⁶³ In the American context, this experience also includes Native Americans, black Americans, white Americans, Hispanics, Asians, women, the poor, and the wealthy. I used Richard Chused's casebook on Property Law, which advances a Law and Society approach.⁶⁴ I chose this book precisely because it self-consciously focused on race, gender, class, and privilege. In this way, my students would not only get a healthy dose of rules, principles, and standards, but also a unique American context out of

classroom setting, he believes he knows how to teach, and that is yet to be proven. He brings in outside reading that would be helpful in a history of law class or a philosophy of law class, but not in real property. I would like someone from the faculty [to] ask Prof. Robinson what in the world he tried to accomplish by having us read Immanuel Kant in a *real property law* class. This is not undergrad "205" philosophy! This is a class that is supposed to have a professor that is patient and sensitive to the class's knowledge. Not one where the professor just assigns readings and then spends the whole class on portions of the reading, giving us hypotheticals on the moral character of the litigants.

Another student wrote:

I recognize that this professor is receiving a great deal of criticism. I support this teaching and have respected his accessibility. [I] appreciate [the] quality of the teaching assistants. He's challenged, even demanded the class to rise to the occasion—this has personally motivated me to do better. Plus, this professor has supported ethics which will always influence me.

58. See OLIVER WENDELL HOLMES, JR., *THE COMMON LAW* 1 (1991) ("The life of the law has not been logic: it has been experience.").

59. See CHARLES DONAHUE, JR. ET AL., *PROPERTY: AN INTRODUCTION TO THE CONCEPT AND THE INSTITUTION passim* (3d ed. 1993).

60. See IMMANUEL KANT, *THE METAPHYSICS OF MORALS* (Lewis White Beck trans., 1980). After my first year of teaching Property, I decided to drop Kant's reading from my course, primarily because the students' negative reaction and my colleagues' lack of support were so strong.

61. See ROGER A. CUNNINGHAM ET AL., *THE LAW OF PROPERTY* § 1.2 (1984) (citing WESLEY NEWCOMB HOHFELD, *FUNDAMENTAL LEGAL CONCEPTIONS* 23-124 (1923)).

62. See RICHARD A. POSNER, *ECONOMIC ANALYSIS OF LAW* § 2.1, at 10-13 (1972) (discussing private and public incentives to use resources efficiently by a criteria, viz., universality of ownership, exclusivity of ownership, and transferability of property rights).

63. These authors included Baechler and Chapman. See DONAHUE ET AL., *supra* note 59, at 177-79.

64. See CHUSED, *supra* note 33.

which to learn Property Law. With this approach, we could think and rethink rules, principles, and standards.⁶⁵

For example, teaching *Johnson v. M'Intosh*,⁶⁶ *Dred Scott v. Sandford*,⁶⁷ and *Brummet v. Weaver*,⁶⁸ offered me, and the students, excellent opportunities to think and rethink rules, principles, and standards. The social and legal theorists, having already been discussed, would give them a conceptual framework from which to question thoroughly the legitimacy of an existing rule. In *Johnson*, we had an opportunity to think and rethink, at the very least, about legal norms as racial narratives, "first in time" as political pragmatism, dominant discourse as "perspectivelessness,"⁶⁹ the discovery rule as imperial rule making, or chain of title as politically sanctioned possession. In *Dred Scott*, we could, at the very least, acknowledge that procedure informs substantive justice, rights-based discourses (e.g., property regimes) depend not on legal standards but on rationalized alienation,⁷⁰ and federal citizenship (e.g., immigration policy) reflects racial fears and interest convergence.⁷¹ And

65. See, e.g., David M. Trubek, *Back to the Future: The Short, Happy Life of the Law and Society Movement*, 18 FLA. ST. U. L. REV. 1 (1990).

If we think of law only as a set of rules or principles, the social sciences have little to offer legal studies. Accordingly, if law is to be examined by the social sciences, it has to be redefined. We have to think of law as a social institution, as interacting behaviors, as ritual and symbol, as a reflection of interest group politics, as a form of behavior modification, or in some other way that makes it amenable to social scientific analysis.

Id. at 6.

66. 21 U.S. (8 Wheat.) 543 (1823).

67. 60 U.S. (19 How.) 393 (1856).

68. 2 Or. 168 (1866).

69. See Crenshaw, *supra* note 42, at 35.

70. See, e.g., Peter Gabel, *The Phenomenology of Rights-Consciousness and the Pact of the Withdrawn Selves*, 62 TEX. L. REV. 1563, 1567 (1984) ("Alienation . . . is a paradoxical form of reciprocity between two beings who desire authentic contact with each other and yet at the same time deny this very desire in the way that they act toward one another."). Peter Gabel correctly argues that:

For those of us gathered within the geographical borders of the United States, the verbal concepts that purport to constitute our group in this fashion are contained in "the Constitution," which signifies both an original moment in which we supposedly came together to form "a union," and the schema by which we are to reproduce our group connection through the reproduction of "the State," and through "the following of laws" created and interpreted by this "State." These laws define how we are "allowed to act" in the form of "rights." If we now examine the relationship of this schema to the inner experience of the alienated individual that I have just summarized, we can discover how the schema is intended to "legalize" this experience and in so doing make the reproduction of alienation a condition of group membership.

Id. at 1573-74 (footnotes omitted).

71. See, e.g., Derrick A. Bell, Jr., Comment, *Brown v. Board of Education and the*

with *Dred Scott*, we should not only discuss the life tenant's right to encroach on the eventual taker's vested remainder,⁷² but also ask: If the state determines what is "property," then should humans ever be property?⁷³ I could also ask them to consider *Dred Scott* and *Florida v. Powell*,⁷⁴ and ask: Should we avoid creating property regimes that might commodify human beings?⁷⁵ If the answer is "yes, of course," then should we permit people to have a commercial right in their images?⁷⁶ In *Brummet*, we could not only discuss the notice rule for bona fide purchasers, but also chance thinking and rethinking creditors' rights as gender marginalization, a women's right to control their personal and real property, and the role of courts and legislators in reinvigorating aspects of patriarchal control. In using cases like *Johnson*, *Dred Scott*, and *Brummet*, I had a very narrow goal: to question the sanctity of legal rules and principles. I confess also a larger, general goal: to challenge all social regimes and institutions. These goals compliment each other—trust not what you are told, but what you learn by experiences to be "true." Why? At base, law, rules, concepts, and institutions represent ideas in flux, and each of us has a moral obligation to move them toward "True Justice." In effect, I ushered my students into Hegelian dialectics.⁷⁷ For those students who believed the law

Interest-Convergence Dilemma, 93 HARV. L. REV. 518 (1980); Kevin R. Johnson, *Los Olvidados: Images of the Immigrant, Political Power of Noncitizens, and Immigration Law and Enforcement*, 1993 BYU L. REV. 1139.

72. See CHUSED, *supra* note 33, at 163 ("Emerson died in 1843, leaving all his property to his wife *for her life*, with the *remainder* to his daughter, Henrietta Sanford Emerson. The will also gave Mrs. Emerson the *power to encroach* upon the interest of the remainder to provide for her own maintenance or for the education of Henrietta." (footnotes omitted)) (citing WALTER EHRLICH, *THEY HAVE NO RIGHTS: DRED SCOTT'S STRUGGLE FOR FREEDOM* 28 (1979)).

73. In a 1991 student evaluation, one student wrote: "This was supposed to be a *Real Property* class; thus far we have wasted our money. We have been insulted by Mr. Robinson's decision that, *as a class*, we have had *no* moral education. The teacher actually made us read Kant before he would *discuss* the *Dred Scott* decision."

74. 497 So. 2d 1188 (Fla. 1986).

75. See Margaret Jane Radin, *Market-Inalienability*, 100 HARV. L. REV. 1849 (1987); Margaret Jane Radin, *Property and Personhood*, 34 STAN. L. REV. 957 (1982).

76. See Martin Luther King, Jr., *Ctr. for Soc. Change, Inc. v. American Heritage Prods., Inc.*, 296 S.E.2d 697 (Ga. 1982) (creating a right of publicity that survives the death of the holder and descends to heirs, even if the holder fails to exploit that right during his or her life).

77. See J.N. Findlay, *The Contemporary Relevance of Hegel*, in *HEGEL: A COLLECTION OF CRITICAL ESSAYS* 17 (Alasdair MacIntyre ed., University of Notre Dame Press 1976). Findlay states:

I think there are several strong grounds for being an Hegelian . . . One *should* be an Hegelian because, as a rational being, one *must* be one anyway, because one must at least *act* as if all theoretical discrepancies could be re-

could promote justice, I was deeply appreciated and valued.⁷⁸ For those students who believed that property should only prepare them to pass the bar examination, I was doubted, vilified, and rejected.⁷⁹

Basically, when my students and my colleagues criticized me, they implied that I did not fit within the institutional narrative of good law teaching, and that they could not respect me as a black intellectual. First, the students who had been socialized in the institutional discourse on good law teaching imposed upon me the sole obligation to manipulate the "black letter law." One student wrote on a non-confidential page in my evaluations:

Professor Robinson is a very nice man on a one to one basis. However, this semester in Real Property has caused a great deal of discomfort in myself and other students, for the following reasons: . . . He has not taught us black letter law which will place his students at a serious disadvantage on the Bar exam.

This student also wrote that I "[f]ocuse[d] on civil rights over real property." Another student wrote: "Waste of [money] thus far. The teaching approach taken does not mesh with the make-up of the class." Yet another student wrote:

I have always been a student who gives the professor the benefit of the doubt. Professor Robinson is an extremely nice individual and is a pleasure to converse with outside of class. I only wish the best for him, but I do have great doubts about his teaching

moved, all irrational impulses controlled, all differences of personal insight and interest adjusted, the natural world deprived of its alienation and remoulded to serve the rational purposes of man.

Id. at 18-19.

78. For example, one student wrote:

This one is a keeper in light of [the law school's] difficulty in acquiring an adequate minority Real Property instructor. His level of preparation is extremely high. As a result, students must struggle to match his expectations. Although the subject matter of the course differed from other professors, perhaps what we learned may prove more valuable/useful in the long run.

79. In 1991 a student wrote:

I took this class in order to learn about real property. I am paying this school about \$1,200 and I have only learned philosophy. I cannot stand before a judge, or a client, and tell them what Locke or Bentham would think about their situation. That would be the end of my career. If [this law school] wants to improve their bar-passing rate to somewhere above its 50%, I would suggest that you get professors who teach the law and who would help students to learn enough to pass that section. Obviously, this class will not benefit any of us. Fortunately, we take a bar-passing course which is my only salvation from this class. Screen your hires more thoroughly. Robinson would be better teaching philosophy. BAG HIM!!

ability. Whether or not he should teach about philosophers in a property class is not the issue, what is an issue is that he does not teach the law of property. He has never once laid down a rule or explained a definition, and we are required to learn the "black letter" law through supplemental sources. (We might as well have taken a "write in" correspondence course.) He seems to hold us to a higher standard, which is good, but his neglect of instruction, his bias in class, and his unnecessary waste of valuable class time has worn completely thin. If he would ever get off his "high horse," he might be an *average* Professor at best. A change is NEEDED!

The pain I experienced in teaching Real Property was amplified when I read these student evaluations (I had yet to meet the late Trina Grillo who told us how to cope with student evaluation's hatred). I did not know how to respond. I did not know to whom I could turn. I had friends across the country, but none of them could help solve this institution's peculiarity. As Jerome Culp always reminds us: "all politics is local." At the time, I thought that my students had plenty of rules. In fact, at different points in the semester, I gave them the rules; what matters is not rules but analysis.⁸⁰ I then realized that "black letter law" was both literal and metaphoric. It meant more than getting the rules. On a literal level, it means: first, that the teacher is not stating clearly what are the rules and holdings; second, that the teacher is not targeting rule analysis to the bar examination; and third, that the teacher is not telling them how to desegregate rules for analytical approaches. On a metaphorical level, however, it means: first, that students are getting a perspective that challenges the dominant discourse (thus, fear, anger, or guilt might arise);⁸¹ second, that students are receiving policy analysis that questions the court's rationale (e.g., destabilizing and revealing a court's racial, gender, or class bias); and third, that the students are suffering through an intellectual discourse only minimally relevant to traditional law school pedagogy (e.g., professor always teaches not property but philosophy). As such, when students criticize professors, especially minorities and women, complaining to deans or personnel committees that they are not getting

80. See Fish, *supra* note 49, at 1326 ("[I]f the rules tell you what to do with texts, they cannot themselves be texts, but must be—in the strong sense assumed by an older historiography—documents. Unfortunately, rules *are* texts. They are in need of interpretation and cannot themselves serve as constraints on interpretation." (footnote omitted)).

81. See generally ROLLO MAY, *THE CRY FOR MYTH* (1992).

the "black letter law," they seek to control those professors who imagine themselves not as trade school lecturers but as true intellectuals. In this way, student evaluations serve many purposes, the least of which is constraining the black intellectual.

In addition, "civil rights" and "make-up of the class" serve as proxies (or metaphors) for race, and a so-called "black" intellectual pursues not an institutional agenda but a personal one.⁸² I chose Chused's property textbook⁸³ because I did not wish to supplement my casebook with "my" materials, an approach that invariably raises charges from students that professors are not meeting the students' narrow pedagogical needs.⁸⁴ If "civil rights" and "make-up" conjoin to reveal a racist undertone or to mark black intellectuals as irrelevant, then it would appear that the students' expectations have clashed with the cases on which I have relied to teach critical, analytical thinking.⁸⁵ For example, I still think that *Shelley v. Kramer*,⁸⁶ *Charlotte Park and Recreation Commission v. Barringer*,⁸⁷ and *Evans v. Abney*⁸⁸ are excellent cases not only to teach traditional concepts in real property law (e.g., racially restrictive covenants; public charitable trust and contingent remainders; and fee simple determinables, grantor's intent, and court's equitable

82. See Crenshaw, *supra* note 42, at 49-52.

83. See CHUSED, *supra* note 33.

84. In my 1991 student evaluations, one of my students wrote:

We are badgered about the facts leading up to the case and the procedural history and spend little, if any time on the *property* concepts. . . . This professor spends 90% of the class time trying to build adversarial skills in a handful of individuals at the expense of the education of the others. He is not colorblind at all. . . . If you're a white male in this class you won't have to worry about being called on. The only students we know by name are a few blacks he constantly harps on (Isaac and O'Neil) and one female (Tiffany). The book isn't colorblind either so most of the discussions are very black/white or male/female or one culture or another oriented. It seems as if furthering his own policy/political considerations are more important than teaching property.

85. In my 1991 student evaluations, one of my students wrote:

I think many were confused at first with where we were going with the material and Prof. Robinson's approach. However, I believe that the course has greatly improved from the beginning. Prof. Robinson's classroom method has a strong focus on legal analysis, and has caused us now to focus in depth on the material, and really think about [it]. Prof. Robinson appears to have gained greater sensitivity to the class needs, and I believe that overall this will become a valuable experience. Prof. Robinson shows potential to be an excellent Professor of Law. I'm not sure about the text . . . too many non-property issues have been left unedited, but this may be intentional?

86. 334 U.S. 1 (1948).

87. 88 S.E.2d 114 (N.C. 1955).

88. 396 U.S. 435 (1970).

powers), but also to discuss the injustice, inefficiency, and insanity of white supremacy.⁸⁹ For students, the former information (e.g., contingent remainders) is relevant, but the context out of which it arises, and in no small measure the manner in which I question them on the courts' logic and reasoning, cause them to doubt the viability of their own race-oriented thinking. It is perhaps their point—that if they can get this so-called black intellectual to drop the racial context, then they can keep their “John or Jane Q.” thoughts about race, gender, class, and sexual orientation issues and simply learn the technical tool of legal reasoning. If true, as one student put it, then I “might be an *average* professor at best.” As such, one of my students had implicitly stated that I cannot be a “black” intellectual if my white colleagues cannot imagine it and if my students refuse to accept it.⁹⁰

To the extent that student evaluation codes (e.g., “black letter law” or “civil rights”) alerted the dean and my colleagues that something amiss was occurring in my Real Property course, the Personnel Committee served to reinforce the institution's narrative of good law teaching. Keep in mind that I take issue with my students; however, students take their lead from their professors and from the institution's administrators (e.g., deans). Thus, when my students write on non-confidential forms, which clearly indicate that the Personnel Committee will use their information “in decisions affecting the instructor,” and when my colleague uses his classroom time to generate doubt, hostility, and disrespect for my pedagogical goals, I become deeply concerned when the Personnel Committee implicitly asserts that its goal is to ensure conformity to the institution's narrative of good law teaching.⁹¹

89. See, e.g., JOE R. FEAGIN & HERNÁN VERA, *WHITE RACISM: THE BASICS* (1995).

90. At the beginning of my second year of teaching, one of my students came to my office to discuss his grade and overall performance. I asked why he had performed poorly in my class but had done very well in other classes. He told me that he had been angry with me for the entire year. I asked why. He honestly stated that when he first encountered me, he realized that I was everything he wanted to be, and because of the way I performed, he also realized that he could never be as good as me. I was surprised by his candor, and I began to understand that when minorities, women, gays, and lesbians stand in front of the classroom, usually before white students who have never experienced us as institutional authorities or as intellectual role models, they react on many unseen but expressed levels, one of which is anger and jealousy. In part, the result can be hostility and violence. I mention these responses because they can affect negatively how minority professors succeed in the classroom and because they can determine if such professors stay within legal academe.

91. For example, during my Spring semester, 1993, the Personnel Committee came to my class for approximately three weeks. Most members visited at least twice.

Consider the following example where the Personnel Committee did not protect me from a senior, tenured member of the faculty. I would argue that, among other things, it did not go to great lengths to protect me because, perhaps at the very least, it concluded that I had created my difficulty by violating the institutional narrative of good law teaching. In the Spring semester of 1992, one of my students, who happened to be white, told me that I ought to be concerned about one of my colleagues. This professor and I taught the same students. He taught civil procedure. He was tenured and a full professor, and at that time he had been teaching at the institution since 1983. At this point, the Personnel Committee was considering me for contract renewal, and the student believed that this professor would work against my retention. According to this student, the professor would ridicule me and my pedagogy to our mutual students. They would laugh. These jokes confirmed in the minds of my students that I had adopted a pedagogical approach that was unsupported by the dean, the faculty, and the institution. Apparently, this professor told jokes about me and my teaching approach every time the class met. I asked another student, who happened to be black and with whom I had become somewhat close, if my colleague told jokes about me in a manner that derided my efforts. He said "yes." I asked him if the jokes were funny, and he said "yes." I asked him if he and other students laughed, and he again said "yes." As I understand it, on one occasion, this professor, while discussing a particular principle of civil procedure, began to discuss the rule against perpetuities (a subject we had not yet reached). According to the story, he stopped abruptly and apologized, stating: "Oh, I forgot you're learning philosophy not property." At this remark, the students all laughed.

After I learned that this professor was purposefully undermining my credibility in the classroom, I spoke with two colleagues

At one point, one of my students asked me if something were wrong with my class. As he explained it, the Personnel Committee had come once to one of his other classes. It is clear that some of my students began to read the constant visits as a signal that maybe I was doing something that my colleagues were not doing. I gave the student an innocuous answer. I did not have the heart to say that my colleagues don't respect me and feel that I have no right to educate my students. I felt a sense of shame, diffidence, and anger. From this brief conversation, I began to understand that the Committee was treating me differently from other junior faculty, and at the same time, if they had concerns, none of them were coming to me or talking with me. Thereafter, I became hyper-aware whenever I entered my class because I did not know how I would manage my class if my students perceived that I was institutionally endangered, and thus they could rightly doubt what I said, the questions I asked, and the materials they had to read.

(one male (senior) and one female (junior)) who served on the Personnel Committee. These professors constituted a subcommittee of the Personnel Committee, and they were charged with "assisting" me. I told them what I had learned about my colleague, and stated that I did not want him to apologize to me because I did not think that he would or that they would demand that he should. I simply wanted him to stop. Approximately two weeks later, I was told by the senior male on the subcommittee that they had spoken with him and that he had agreed to stop. Within two weeks, I learned from my students that he never stopped, and that he ridiculed me with increased vigor after he had met with the subcommittee. I felt helpless, professionally undermined, and institutionally marginalized. Later, I learned that at the discussion which concerned my retention, this professor harangued against me and my pedagogy. He told stories which my students had allegedly told him. He never mentioned that he had encouraged my students to reject me as both their law professor and as a black intellectual. He apparently had hoped to turn the faculty against me. I was told what happened at the meeting by a sympathetic colleague (the only other minority on the faculty); the Personnel Committee never informed the full faculty that this professor actively undermined me. Despite his assault on my personal integrity and professional character in an open faculty meeting—or maybe because he had done it—the faculty, by some unknown majority, voted to retain me for one additional year.

At the beginning of the Spring semester, 1992, before this vote was taken, I met with two colleagues on my Personnel subcommittee. It would appear that they had read my student evaluations, and that they were determined to steer me away from my pedagogical approach. Throughout the meeting, I felt not like a colleague but like an errant employee who was getting reprimanded by a boss or supervisor. We did not sit in a circle, where I could feel as if we were engaged in the enterprise of helping me, a new law teacher, learn how to teach effectively and how to attain the goals of my pedagogical philosophy. I felt like my colleagues were adversaries. In effect, this subcommittee was perhaps mandated to whip the initiate into line. In this meeting, we did not talk about my teaching philosophy, what I expected of my students, why I demanded their excellence, or how my demand for excellence is less about perfect performance on an examination and more about learning to do what they might initially consider improbable. Rather, I felt like I was getting an early warning which a litigation-conscious employer could then place in the worker's personnel file so that, at the ap-

pointed hour, when it must dismiss him, it could operate with a clean conscience—after all, the subcommittee intimated that this event could happen. Minorities have never succeeded at this institution; and by success I mean earned tenure. Perhaps, as a consequence of this fact, this institution believed not that I would succeed, but that I would fail. In this way, this meeting was a brick in the wall of a self-fulfilling prophecy.⁹²

When I entered my colleague's office, I was already deeply in pain. It was a very rough beginning. I was battle weary, bone tired. And when he began to talk, I sank into my pain which embraced me with rough, razor sharp arms. As he talked, I sensed that invisible cuts would hasten my death. I wondered if he saw my pain. He did not. As he continued to talk, I felt small and unsure. He, a liberal colleague, told me bluntly that I was "sub par," that my performance was "unacceptable."⁹³ What most disturbed me was that he appeared to swagger unsympathetically in his seat. I felt threatened, unsupported, and disrespected.⁹⁴ As he spouted on ar-

92. See Delgado, *supra* note 52.

The principle [of formal equality] also reinforces white superiority. Under it, non-whites are judged with scrupulous fairness by criteria coined by, normed on, and applied by whites. Not surprisingly, the latter generally come out ahead; yet because all have had an equal chance, each person's lot must be roughly what he or she deserves.

Id. at 633.

93. See, e.g., Patricia Williams, *The Obliging Shell: An Informal Essay on Formal Equal Opportunity*, 87 MICH. L. REV. 2128 (1989).

What is truly demeaning in this era of double-speak-no-evil is going on interviews and not getting hired because someone doesn't think we'll be comfortable. It is demeaning not to be promoted because we're judged "too weak," then putting in a lot of energy the next time and getting fired because we're "too strong." . . . It is outrageously demeaning that none of this can be called racism, even if it happens to disproportionately large numbers of black people; as long as it's done with a smile, a handshake and a shrug; as long as the phantom-word "race" is never used.

Id. at 2141.

94. Apparently I am not alone in having this experience. Okianer Dark writes:

Near the end of my first year of teaching, the Dean called me into his office to provide me with an assessment of my teaching during that year. After some preliminary matters were discussed, he told me that I was one of the worst teachers in the law school. He said that there were three poor law teachers in the law school and I fit in that category. I asked him to tell me what was wrong with my teaching and how I might improve. His response was that he was not certain that I could improve and that I would have to learn how to work within my limitations in this area.

Dark, *supra* note 27, at 32.

In my first year of law teaching, I also met with my dean. In our conversation about my teaching abilities, he told me that I would never be as good as a senior colleague who had been teaching Real Property for more than 20 years. He told me of this

rogantly and officiously, I looked at the junior female colleague (the same one who told the student to report to the Personnel Committee); I needed a reality check. I wanted some assurance that I was not misreading him. I also tried to see if she agreed with his outrageous conduct. As I looked at her, she turned her eyes away. I was stunned. If I told him how I really felt, I would lose any support he might have to offer. If I sat quietly, he could get the wrong impression about me, my personality, and my pedagogical goals. After dressing me down and impliedly threatening my future at the law school, he offered me the wisdom of his years of teaching. He told how he had the same problems at the law school where he first taught, and how marketing his course helped him. This raises a question in my mind: How do I market my course when my race and perspectives are the central issues?⁹⁵ In the end, he acknowledged but never addressed my class's racial dynamics.

Next, he "suggested" that I change my textbook; it was, after all, controversial. I got what he was implying: my textbook offends ordinarily civilized students and irks them into racist, violent rages. If I could use a standard textbook, it would all go away. I mustered as much confidence as I could, and I stated in what I hoped was not a challenging tone that I had invested too much time in learning the book. I needed time to master it. What I really wanted to say was: "How dare you challenge my right to choose a textbook that closely supported my pedagogical goals and philosophy." He nodded politely; she sat quietly. If I had agreed to change my textbook, which no other property professor in this institution used, I believe I would have been encouraged to use Jesse Dukeminier and James Krier's textbook.⁹⁶ Unlike Chused's textbook,⁹⁷ this textbook has been widely adopted, and a commercial outline exists for it. With this textbook, my colleagues would not have to read my textbook in order to assist me in achieving my pedagogical goals, and in theory

colleague's wit, command of the subject, and his control in the class. He never discussed the obvious: he was white, had taught for more than 20 years, and should know his subject. At that point, I sensed that this senior colleague was the standard bearer. I had fallen decidedly short of his quality, and by my dean's estimation, I could never catch up—not even get close. I sat in the chair across from him not knowing exactly what to say. I did realize that if I tried to teach like him, I would forever chase a chimera, and if I ever caught it, nothing there would be of substance. I realized that I would never be viewed as a good law teacher.

95. See Dark, *supra* note 27, at 31 ("[B]e careful and deliberate before acting on . . . advice. Just because it worked for 'them' does not automatically mean it will work for you.").

96. JESSE DUKEMINIER & JAMES E. KRIER, *PROPERTY* (3d ed. 1993).

97. See CHUSED, *supra* note 33.

they could better understand what I was doing. At the very least, race, gender, and class would have been consigned to note problems, and note problems can always be ignored because they are not key to learning the legal doctrine (i.e., "black letter law"). In this meeting, I felt too frightened, too isolated. If this liberal white male did not understand, and if this junior female colleague noticed what was happening but felt powerless to question his unmitigated arrogance, I certainly as a new assistant professor should not worsen my situation. And as a doubtful black intellectual, I had no standing to question openly the manner in which he challenged my judgment in teaching from this textbook.⁹⁸

In the Fall of 1992, my white colleagues questioned my status as a black intellectual. As usual, my students complained because I used legal philosophy (without Kant) and cases to discuss property law as a cultural institution.⁹⁹ Because my senior property professor began with landlord-tenant law and because I already had a reputation, my students felt that they would be particularly prejudiced when they were to take the bar examination almost three years later. As usual, these complaints passed through the dean's hand (i.e., a Personnel Committee member *ex officio*) into the Personnel Committee's jurisdiction. After notice, the Personnel Committee members visited my class; the visits continued for three weeks. Prior to the visits, I was never asked by a Committee member if he or she could meet with me to discuss any of at least three vital issues: first, what my teaching philosophy was, second, what I intended to cover on a given day, and third, if I could make materials available to my visitors. This last point is vital because none of the property professors served on the Committee. Equally important, after a visit, the Personnel Committee never came to talk with me about what it had heard, understood, or believed. Without this professional courtesy, the Personnel Committee would have to rely on others who taught property law to assess my substantive command of my material. Without feedback, I could not learn constructively and consistently how I could affect my pedagogical goals.

On the occasion of visiting my class, the Personnel Committee

98. Cf. Russell, *supra* note 6, at 261 ("Most [whites] consciously have to remind themselves that she is their equal. Otherwise, the tendency is to assume her inferiority, to believe that her appointment was unmerited, and was thus nothing more than a grant of their grace.").

99. See, e.g., *International News Serv. v. Associated Press*, 248 U.S. 215 (1918); *State v. Powell*, 497 So. 2d 1188 (Fla. 1986); *Martin Luther King, Jr., Ctr. for Soc. Change, Inc. v. American Heritage Prods., Inc.*, 296 S.E.2d 697 (Ga. 1982).

listened to "Socratic" dialogue with my students about contingent remainders and executory limitations. We had been discussing future interests for only a few classes. As part of their assignment, they were required to read Jesse Dukeminier's *Contingent Remainders and Executory Interests: A Requiem for the Distinction*.¹⁰⁰ Dukeminier argues that apart from destructibility and the Rule in Shelley's Case, which courts refuse to apply, "no discernible difference [exists] between executory interests and contingent remainders."¹⁰¹ A student asked me as I proceeded to question, "Are these interests just alike?" I responded by saying, "Technically, they are not, and they developed at different historical moments. You've obviously read the article. I agree with Dukeminier; these interests are functionally equivalent." My students did not react with distinct concern, perhaps because they had read the article and understood or perhaps because they had read the article and remained as confused as ever. At class's end, I went over the diagrams on the board, answering my students' concerns and offering additional information and examples. I did not approach my visitors, and they did not offer me any words of concern or encouragement.

In November of 1992, I met with my subcommittee. The members were different, but the effect was the same. Although I was stronger emotionally, I was totally shocked when the chairperson of the Personnel Committee stated with cruel certainty, "You made a mistake in your class." In truth, I was not shocked that I would make a mistake. Teachers make mistakes! My face registered shock because I was told that the visitors from the Personnel Committee disagreed with my agreement with Jesse Dukeminier's article, and they went to the library to research my agreement against what they had learned in law school. I could not believe what I was hearing. First, I declared that I had not made a mistake; I felt almost defiant. Then I asked pointedly, "Why didn't anyone come to talk to me?" I also asked, "Why wouldn't someone come and tell me that I've made a mistake so that, if true, I could immediately correct it; minimize the harm?" I was on the defensive again. At that point I began to explain to them that I had relied upon sources such as my textbook and treatises. When it became clear that I was probably not mistaken, I was told that perhaps I was teaching over

100. J.J. Dukeminier, Jr., *Contingent Remainders and Executory Interests: A Requiem for the Distinction*, 43 MINN. L. REV. 13 (1958).

101. *Id.* at 52.

my students' heads. I thought to myself, "My students were not accusing me."

I realized then what my colleagues were implicitly saying. They could not imagine me as an intellectual, someone who thinks and disagrees with legal doctrine. I was supposed not to challenge doctrine critically but to impart rules, principles, and standards simply and clearly. I felt they were also stating that I was an ineffective intellectual. Basically, without any work, they should have understood what I was doing that day in class. Why read my book? If I am effective, anyone should walk in off the street and get it. If they cannot, then I must be teaching over my students' heads. As we talked, I told them that if my students had problems with the material, I expected them to read a treatise or a law review article, and then come to me. I was then told emphatically that my students must get everything they need in class. Again the point: I am not a "black intellectual" but a conveyor of legal doctrine (i.e., black letter law).¹⁰²

At this same meeting, the chair "suggested" that I not teach *Dred Scott*. I gently resisted. This suggestion reflects the following student criticism: "Get a *new* textbook. This book has *so* much background material and it is *so* confusing that it is a detriment to understanding the substance. Very often the background material is *completely* irrelevant to the opinions. Cut back on the historical cases." By reading a case's historical background, a student can get a much better sense that the court is not simply applying rules in a very mechanical fashion. Rather, the court functions within its historical context, and this context influences how the court resolves a legal dispute. Thus, I need not defend my choice. What is most vital is that historical cases and their background material focus on race, gender, and class issues. In the American Land History chapter, we find Native American issues,¹⁰³ racial discrimination,¹⁰⁴ and gender oppression.¹⁰⁵ If students did not directly advocate dropping the historical material (perhaps, proxies for race?), they explicitly stated that "civil rights" and "constitutional law" were

102. Cf. Crenshaw, *supra* note 42, at 35 ("Dominant beliefs in the objectivity of legal discourse serve to suppress the conflict [of individual values, experiences, and world views] by discounting the relevance of any particular perspective in legal analysis and by positing an analytical stance that has no specific cultural, political, or class characteristics.").

103. See, e.g., *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831).

104. See, e.g., *Clark v. Universal Builders, Inc.*, 501 F.2d 324 (7th Cir. 1974).

105. See, e.g., *Bradwell v. Illinois*, 83 U.S. (16 Wall.) 130 (1872).

irrelevant to Real Property. If I were to drop the historical material, I would be agreeing that a race, gender, class, or sexual orientation perspective was irrelevant. Basically, then, I would use a non-perspective perspective that would reinforce that I, a "black" intellectual, was irrelevant.¹⁰⁶ That is, my views did not matter to the law's meat and potatoes—legal doctrine. In this way, by agreeing not to teach decisions like *Dred Scott*, I must first agree that my perspective and my intellectual inquiry were immaterial to the truly relevant skill of analyzing legal rules.

After that meeting with the subcommittee, I was deeply concerned. At this institution, I could not be an intellectual. Rather, I must spout rules, all the while showing my students how to parse them and digest them analytically. A private conversation I later had with a member of the Personnel Committee confirmed this feeling. He voluntarily came to me and said that the "powers that be" believed that I had turned the corner on my teaching. I was happy to hear this modest praise. I could use a respite from the institutional pressure. However, he then asked me to do two things: stop writing and teach like everyone else. I was floored, but I could have overreacted. Perhaps, like an angel of mercy, he came to offer me solace in the bosom of the institutional gods (e.g., the dean). If I would simply capitulate, all would be forgiven. The "bastard" child might ultimately be adopted into this institutional family (i.e., tenure); I should thus be very grateful. On the other hand, he might have different motives. During this conversation, he explained to me that I did not have to write any more. I had two articles published in my first two years of teaching. At this institution, tenure required *only* two articles. Thus, I could devote my time to teaching. As for teaching, I guess he wanted me to blend. I told him that I could not teach like others. I did not know what he meant. Besides, if I could not use my own pedagogical approach, then this institution simply wanted not my experience, but my black face. (The ABA Accreditation Team visited this institution during

106. Cf. Crenshaw, *supra* note 42, at 35-36:

To assume the air of perspectivelessness that is expected in the classroom, minority students must participate in the discussion as though they were not African-American or Latino, but colorless legal analysts. The consequence of adopting this colorless mode is that when the discussion involves racial minorities, minority students are expected to stand apart from their history, their identity, and sometimes their own immediate circumstances and discuss issues without making reference to the reality that the "they" or "them" being discussed is from their perspective "we" or "us."

Id. (footnote omitted).

my first year.) I was left to think about his words and their meaning. Within minutes, I called my mentors, and I was told emphatically that if I stopped writing, I would die professionally. I listened; I kept writing, and I sent letters to my friends across the country telling them that I had to leave and that I needed their help. Why? In protecting this institution's narrative of good law teaching, I was neither valued as a colleague, respected as a law professor, nor accepted as a "black" intellectual.

CONCLUSION

In this personal essay, I operate with one principle: We must begin to talk about how minorities, women, and gays/lesbians are treated by majority white legal educational institutions. In this vein, I offer my experiences. It took me years to get over the pain. I first began by forgiving my so-called colleagues. I had to stop hating the profoundly insecure white males who used boot camp tactics to try to kill my spirit, to break my will to resist, or to drive me from the profession. I also had to stop despising my white, mostly liberal, male (and female) colleagues who did not have the temerity to shield me from the injustices I suffered. In effect, they were much more concerned about their economic circumstances than my professional development and personal safety. I cannot fault my students too much. After all, it took a high conspiracy of faculty, deans, and students to assault me concertedly. I am not suggesting that I did not make mistakes. Of course I did! I was learning how to teach creatively, and I proceeded on the theory that creative teaching is a process. If I never tried it, I might not ever have learned to do it well. This institution's response was punishment. To be different, to raise nasty race-oriented issues, for example, is to invite professional death and spirit murder.¹⁰⁷ My death and murder were necessary because I continued to insert race, gender, and class where, in their minds, it did not belong. As a consequence, race—this offending, contaminating substance—operated everywhere. The institution could not right itself until I had been broken like a wild, brute beast or until I had been so marginalized, silenced, and oppressed that I would voluntarily come in from the psychological cold by becoming a team player, even at the expense of my own pedagogy, my duty to my students, and my own intellectual goals.

107. See Patricia Williams, *Spirit-Murdering the Messenger: The Discourse of Fingerprinting as the Law's Response to Racism*, 42 U. MIAMI L. REV. 127 (1987).